

JAN 25 2018

JULIA C. DUDLEY, CLERK  
BY:  DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

UNITED STATES OF AMERICA )

v. )

RAFAEL JIMENEZ, )

Petitioner. )

Case No. 5:09cr00032

By: Michael F. Urbanski  
Chief United States District Judge

**ORDER**

For the reasons set forth in the accompanying memorandum opinion, the court

**ORDERS** as follows:

- (1) Petitioner Rafael Jimenez's habeas corpus petition, ECF No. 120, is **GRANTED**.
- (2) Petitioner's sentence on Count Four imposed pursuant to the Armed Career Criminal Act is **VACATED**.
- (3) Petitioner will be resentenced on a date to be determined by the Clerk in Roanoke, Virginia. Counsel are **DIRECTED** to contact the Clerk to schedule a sentencing hearing.
- (4) Counsel for Petitioner is **DIRECTED** to advise the court whether Petitioner will appear at the resentencing in person, or whether he agrees to waive his appearance in person and consent to appearance via videoconference.
- (5) An expedited Amended Presentence Investigation Report **SHALL** be prepared in advance of sentencing reflecting this Court's ruling and without application of the Armed Career Criminal Act. Any objections to the Amended PSR shall be filed no later than seven days prior to resentencing.
- (6) Counsel are **DIRECTED** to file sentencing memoranda seven (7) days prior to resentencing.

The Clerk is **DIRECTED** to file this Order and provide copies to counsel and the United States Probation Office.

It is **SO ORDERED**.

Entered: 01-25-2018

*1st Michael F. Urbanski*

Michael F. Urbanski  
Chief United States District Judge